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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Brian James Ragaller,

Plaintiff,

v.

ACE American Insurance Company,  
Sedgwick Claims Management Services,  
Inc.; and Elizabeth Young,

Defendants.

Pima County Superior Court No.  
C20151313

**NOTICE OF REMOVAL OF  
ACTION; VERIFICATION OF  
IAN M. FISCHER**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1446, Defendants ACE American Insurance Company (“ACE”), Sedgwick Claims Management Services, Inc. (“Sedgwick”) and Elizabeth Young (“Young”) (collectively “Defendants”) petition this Court for removal of the state court action, which was originally commenced in the Superior Court of the State of Arizona in and for the Pima County, entitled *Brian James Ragaller v. ACE American Insurance Company, Sedgwick Claims Management Services, Inc., and Elizabeth Young*, Case No. C20151313 (the “State Court Action”), on the following grounds:

1. On March 19, 2015, Plaintiff filed the State Court Action. Plaintiff’s Complaint did not state an amount of damages. A true and correct copy of the Complaint is attached as **Exhibit 1**.

2. On April 16, 2015, Plaintiff filed a First Amended Complaint (“FAC”) in

1 the State Court Action. The FAC added Young as a defendant, but still did not state an  
2 amount of damages. A true and correct copy of the FAC is attached as **Exhibit 2**.

3 3. On May 27, 2015, ACE filed its Answer to the FAC. A true and correct  
4 copy of the Answer is attached as **Exhibit 3**.

5 4. On May 27, 2015, Sedgwick and Young filed a Motion to Dismiss the FAC.  
6 A true and correct copy of the Motion to Dismiss is attached as **Exhibit 4**. On June 12,  
7 2015, Plaintiff filed a Response to the Motion to Dismiss. A true and correct copy of the  
8 Response is attached as **Exhibit 5**. On June 24, 2015, Sedgwick and Young filed a Reply  
9 in Support of their Motion to Dismiss. A true and correct copy of the Reply is attached as  
10 **Exhibit 6**. The Judge in the State Court Action has not ruled on the Motion to Dismiss  
11 and the Motion to Dismiss remains pending at the time of removal.

12 5. Attached as **Exhibit 7** are copies of all other process, pleadings and orders  
13 filed in the State Court Action.

#### 14 **VENUE**

15 6. Under 28 U.S.C. § 1446(a), venue of this action is proper in this Court as  
16 the district and division within which the State Court Action was brought.

#### 17 **JURISDICTION**

18 7. Under 28 U.S.C. § 1441, Congress has granted defendants the statutory right  
19 to remove a case from state court to a United States District Court where that case could  
20 have originally been filed in federal court. This grant is authorized by Article III, Section  
21 2 of the United States Constitution, which extends judicial power of the federal courts to  
22 controversies “between citizens of different states.” 28 U.S.C §1332.

23 8. Removal is proper in this case because the Court has original jurisdiction of  
24 this action under 28 U.S.C. § 1332 because there is complete diversity of citizenship  
25 between the parties and the amount in controversy, exclusive of interest and costs,  
26 exceeds \$75,000.00. *See* 28 U.S.C. § 1441.

#### 27 **AMOUNT IN CONTROVERSY**

28 9. Arizona Rule of Civil Procedure 26.1(a)(7) requires parties to include in

1 their initial disclosure statements “a computation and the measure of damage alleged by  
2 the disclosing party and the documents or testimony on which such computation and  
3 measure are based.”

4 10. On July 20, 2015, Plaintiff served Defendants with his Initial Rule 26.1  
5 Disclosure Statement (“Disclosure Statement”). A true and correct copy of the Disclosure  
6 Statement is attached as **Exhibit 8**. The Disclosure Statement states Plaintiff’s damages  
7 are in excess of \$2,000,000. Ex. 8 at 15-16.

8 11. Plaintiff seeks damages arising from Defendants’ handling of his workers’  
9 compensation claim. According to the Disclosure Statement, Plaintiff seeks damages for  
10 mental anguish (\$725,000); pain and suffering (\$725,000); physical impairment  
11 (\$675,000); lost wages, lost earning capacity and financial impacts (\$227,000); and  
12 attorneys’ fees (estimated between \$78,000 to \$117,000 through trial, plus additional fees  
13 if matter is appealed). *See id.* Plaintiff also seeks punitive damages. *See* FAC.

14 12. Based on the foregoing, the amount in controversy exceeds \$75,000,  
15 exclusive of interest and costs. Defendants, however, do not concede that they are guilty  
16 of any conduct that would warrant the imposition of any damages alleged by Plaintiff.

### 17 **GEOGRAPHICAL DIVERSITY**

18 13. Upon information and belief, Plaintiff is a citizen of Arizona. *See* FAC ¶ 2.

19 14. ACE is incorporated under the laws of the State of Pennsylvania with its  
20 principal place of business located in Pennsylvania.

21 15. Sedgwick is incorporated under the laws of the State of Illinois with its  
22 principal place of business in the State of Tennessee.

23 16. Young is a citizen of Colorado.

24 17. This case meets the requirements for original jurisdiction in this Court  
25 stemming from diversity of citizenship as set forth in 28 U.S.C. § 1332(a).

### 26 **REMOVAL IS PROPER**

27 18. Under 28 U.S.C. § 1446(b), a case that is not removable based on the initial  
28 pleading may be removed within thirty days after defendant receives a paper “from which

1 it may first be ascertained that the case is one which is or has become removable,” but no  
 2 later than one year after commencement of the action.

3 19. This Notice of Removal is timely filed because it was filed within thirty  
 4 days after receipt of the Disclosure Statement (*i.e.*, July 20, 2015), which, for the first  
 5 time, established the grounds for removal based on diversity, and within one year of the  
 6 filing of the commencement of the State Court Action (*i.e.*, March 19, 2015). 28 U.S.C. §  
 7 1446(b).

8 20. Defendants will also timely file a Notice of Removed Action with the Clerk  
 9 of the Pima County Superior Court.

10 21. Defendants are providing written notice to Plaintiff. 28 U.S.C. § 1446(d).

11 22. Defendants reserve the right to amend or supplement this Notice of  
 12 Removal.

13 WHEREFORE, Defendants request that the action now pending against them in the  
 14 Superior Court of the State of Arizona, in and for Pima County, be removed to this Court.

15 DATED this 24th day of July, 2015.

16 SNELL & WILMER L.L.P.

17  
 18 By: /s/ Ian M. Fischer

19 Joseph G. Adams  
 20 Ian M. Fischer  
 21 Cindy K. Schmidt  
 22 One Arizona Center  
 23 400 E. Van Buren, Suite 1900  
 24 Phoenix, Arizona 85004-2202  
 25 Attorneys for Defendants  
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 28

**VERIFICATION OF IAN M. FISCHER**

I, Ian M. Fischer, verify as follows:

1. I am an active member in good standing of the State Bar of Arizona and an associate with the law firm of Snell & Wilmer, L.L.P., counsel of record for Defendants ACE American Insurance Company (“ACE”), Sedgwick Claims Management Services, Inc. (“Sedgwick”) and Elizabeth Young (“Young”) (collectively “Defendants”). I have firsthand knowledge of the matters set forth herein. I submit this verification pursuant to L.R. Civ. P. 3.6 and Fed. R. Civ. P. 11.

2. Attached as **Exhibit 1** is a true and correct copy of the Complaint filed in the state court civil action originally commenced in the Superior Court of the State of Arizona, in and for the County of Pima, entitled *Brian James Ragaller v. ACE American Insurance Company, Sedgwick Claims Management Services Inc., and Elizabeth Young*, Case No. C20151313 (the “State Court Action”).

3. Attached as **Exhibit 2** is a true and correct copy of the First Amended Complaint filed in the State Court Action.

4. Attached as **Exhibit 3** is a true and correct copy of ACE’s Answer filed in the State Court Action.

5. Attached as **Exhibit 4** is a true and correct copy of Sedgwick and Young’s Motion to Dismiss First Amended Complaint filed in the State Court Action.

6. Attached as **Exhibit 5** is a true and correct copy of Plaintiff’s Response to Defendants’ Motion to Dismiss filed in the State Court Action.

7. Attached as **Exhibit 6** is a true and correct copy of Sedgwick and Young’s Reply In Support of Motion to Dismiss First Amended Complaint filed in the State Court Action.

8. Attached as **Exhibit 7** are copies of all other process, pleadings and orders filed in the State Court Action.

9. Attached as **Exhibit 8** is a true and correct copy of Plaintiff’s Initial Rule 26.1 Disclosure Statement served on Defendants in the State Court Action.

1           10. Attached as **Exhibit 9** is a true and correct copy of the Notice of Removed  
2 Action filed with the Clerk of the Pima County Superior Court, Case No. C20151313.

3 I verify that the foregoing is true and correct.

4 Executed this 24th day of July, 2015, at Phoenix, Arizona.

5  
6 *s/Ian M. Fischer*

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 24, 2015, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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/s/ Rebecca Martindale

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